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Attorneys for CITY OF SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JUAN DIAZ, KEITH KEESLING,
CHRISTOPHER MURPHY, GARY
WEEKLEY, KAREN ALLEN and other
employees similarly situated,

Plaintiffs,

v.

CITY OF SAN JOSE,

Defendant.

Case Number: C07-06424 JW

**STIPULATION AND [PROPOSED]
ORDER EXTENDING THE EARLY
NEUTRAL EVALUATION PERIOD**

STIPULATION

Pursuant to the stipulation of the parties, the Court, on April 23, 2008, ordered the matter to Early Neutral Evaluation ("ENE") and appointed Thomas Gosselin, Esq. as the evaluator. The ENE was to be completed by July 22, 2008. The parties engaged in an ENE session before Mr. Gosselin on July 21, 2008. At the end of session, it was determined that it would be most efficient for the parties and the court, and would more likely result in the informal resolution of this matter, were the parties to engage in another ENE session with Mr. Gosselin after having a reasonable opportunity to further study the scope of the damages being claimed by Plaintiffs under the Fair Labor Standards Act. The parties also agreed to

attempt to address the related case, *Welch v. City of San Jose* (Case No. C08-02132 JW) at the second ENE, as some of the legal issues overlap in the two cases. Combining the ENE of *Diaz v. City of San Jose* and *Welch v. City of San Jose* would further promote efficiency for the parties and the court. As such, the parties, with Mr. Gosselin's support, stipulate through counsel that the ENE period will be extended up through and including September 12, 2008, by which time the parties will schedule another ENE session. The parties further stipulate that the hearing for cross-motions for summary judgment, currently scheduled for September 8, 2008, be taken off calendar to be rescheduled at a future date.

WYLIE, MCBRIDE, PLATTEN & RENNER

Dated: July 30, 2008

By: /s/ Carol L. Koenig
CAROL L. KOENIG

Attorney for Plaintiffs, JUAN DIAZ, KEITH KEESLING, CHRISTOPHER MURPHY, GARY WEEKLEY, and KAREN ALLEN

RICHARD DOYLE, City Attorney

Dated: July 30, 2008

By: /s/ Robert Fabela
ROBERT FABELA
Sr. Deputy City Attorney

Attorney for Defendant CITY OF SAN JOSE

ATTESTMENT OF CONCURRENCE PER GENERAL ORDER 45 FOR FILING:

I attest that concurrence in the filing of this document by the signatories, Robert Fabela and Carol L. Koenig, has been obtained, and that a record of the concurrence shall be maintained at the Office of the City Attorney.

Date: July 30, 2008

By: /s/ Robert Fabela
ROBERT FABELA

[PROPOSED] ORDER

IT IS HEREBY ORDERED that the ENE period shall be extended up through and including September 12, 2008, by which time the parties will schedule another ENE session with the Evaluator regarding both the present case as well as *Welch v. City of San Jose* (Case No. C08-02132 JW). Furthermore, the hearing for cross-motions for summary judgment, currently scheduled for September 8, 2008, shall be taken off calendar until further notice.

Dated: July ____, 2008

UNITED STATES DISTRICT JUDGE